

BEFORE THE NORTH CAROLINA BOARD OF PHARMACY

In The Matter Of:

JAMES MUNDY)
(License No. 11403)) **CONSENT ORDER IMPOSING DISCIPLINE**
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)

This matter came on for consideration at a prehearing conference (hereinafter "conference") pursuant to 21 N.C.A.C. 46.2008. This conference was scheduled for September 17, 2007, and was heard on that day at the office of the North Carolina Board of Pharmacy (hereinafter "Board") by Board member Dr. Betty Dennis. Petitioner/Respondent James Mundy and his counsel, Jim Wilson, Board counsel Sarah A. L. Phillips, Paul Peterson of the North Carolina Pharmacist Recovery Network, and members of the Board's investigation and legal staff were present at the conference. Based upon the record in this proceeding and the statements and materials presented at the conference, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. At all relevant times, Mr. Mundy has been licensed to practice pharmacy by the Board and is the holder of license number 11403.
2. Between October 2006 and February 2007, Mr. Mundy diverted from pharmacies at which he was employed Norco 10/325 mg, a Schedule III medication, and other Schedule III Hydrocodone combination products for his personal consumption.
3. Mr. Mundy did not have a prescription for any of the Schedule III medications that he dispensed to himself.

4. Mr. Mundy acknowledges that he dispensed the Schedule III medications to himself without a prescription.

5. Mr. Mundy voluntarily cooperated with the North Carolina Pharmacist Recovery Network ("NCPRN") to evaluate any potential physical or mental impairments to his safe practice of pharmacy. Between February 14, 2007 and May 18, 2007, Mr. Mundy voluntarily entered and remained in the Center for Professional Excellence in Nashville, TN for treatment.

6. On or about July 13, 2007, Mr. Mundy voluntarily agreed with the Board that he would forego his privilege to practice pharmacy until cleared by NCPRN and the Board to practice again.

7. Mr. Mundy has remained compliant with NCPRN since his release from the Center for Professional Excellence.

8. Mr. Peterson of NCPRN has declared Mr. Mundy fit to practice pharmacy.

CONCLUSIONS OF LAW

Based on the above findings, the Board concludes as a matter of law that:

1. Mr. Mundy violated the following statutes and rules when he dispensed Schedule III medications to himself without a prescription:

- a. N.C. Gen. Stat. § 90-85.38(a)(3), (6) and (7);
- b. N.C. Gen. Stat. § 90-85.40(b) and (f);
- c. N.C. Gen. Stat. § 90-106;
- d. N.C. Gen. Stat. § 90-108;
- e. N.C. Gen. Stat. § 106-134.1;
- f. 21 N.C.A.C. 46.1805; and
- g. 21 U.S.C. §§ 331, 829 and 842.

2. Mr. Mundy admits that the conduct in this matter constitutes sufficient grounds for disciplinary action on his license under N.C. Gen. Stat. § 90-85.38.

3. The Board further concludes that Mr. Mundy can safely continue the practice of pharmacy, subject to the conditions set forth below.

Based on the foregoing, and with the consent of the parties, IT IS THEREFORE ORDERED that:

1. Mr. Mundy's license to practice pharmacy shall be actively suspended for a period of ten (10) days. This suspension shall be deemed to have been already served during the period in which Mr. Mundy voluntarily agreed with the Board that he would not practice pharmacy.

2. Mr. Mundy's license to practice pharmacy shall be suspended indefinitely. This suspension shall be stayed for the duration of Mr. Mundy's PRN contract, and Mr. Mundy shall be permitted to actively practice pharmacy, subject to the following conditions:

- a. Petitioner shall successfully complete his PRN contract.
- b. Petitioner shall advise the Board promptly in writing of any change of address or change in practice status.
- c. Petitioner shall obtain prior approval of all employment as a pharmacist from the Board's Executive Director.
- d. Petitioner shall not serve as pharmacist manager of any pharmacy without prior approval from the North Carolina Board of Pharmacy's Executive Director.
- e. Petitioner shall not serve as a preceptor of pharmacy students.
- f. Petitioner may not be employed as a pharmacist more than 40 hours per week, on the average.

g. Petitioner shall be subject to unannounced drug screens to be performed at his expense by the Board or its agents, and shall supply urine, blood, hair, nail, or any other bodily fluid or tissue sample required for the screening. Results of the screening shall not disclose the presence of any controlled substances, prescription drug, or alcohol, which was not previously prescribed for Petitioner by a practitioner acting in the normal course of medical treatment of Petitioner.

h. Petitioner shall authorize PRN and any treating physician or other health care provider to release Petitioner's medical records to the Board.

i. If Petitioner fails to comply with any terms or conditions of the Order, Petitioner may be subject to additional disciplinary action by the Board.

j. Petitioner shall violate no laws governing the practice of pharmacy or the distribution of drugs.

k. Petitioner shall violate no rules or regulations of the Board.

This the 13th day of September, 2007.

NORTH CAROLINA BOARD OF PHARMACY

By: _____

Jack W. Campbell IV
Executive Director

James Mundy, the holder of license number 11403 has full knowledge that he has the right to a hearing, at which he would have the right to be represented at his expense by counsel, in this matter. The undersigned freely, knowingly and voluntarily waives such right by entering into this Consent Order.

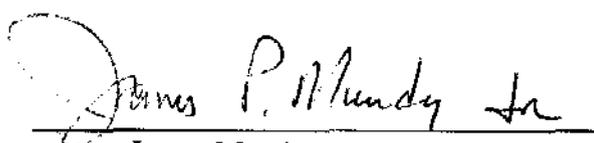
The undersigned understands and agrees that by entering into this Consent Order, he certifies that he has read the foregoing Consent Order and that he voluntarily consents to the terms and conditions set forth therein and relinquishes any right to judicial review of Board actions which may be taken concerning this matter.

The undersigned further understands that should he violate the terms and conditions of this Consent Order, the Board may take additional disciplinary action.

The undersigned understands and agrees that this Consent Order will not become effective unless and until approved by the Board.

The undersigned understands that he has the right to have counsel of his choice review and advise him with respect to his rights and this Consent Order, and represents that he enters this Consent Order after consultation with his counsel or after knowingly and voluntarily choosing not to consult with counsel.

CONSENTED TO BY:

 Date 9/17/07
James Mundy
(License No. 11403)

NORTH CAROLINA

Rowan COUNTY

I, the undersigned Notary Public of the County and State aforesaid, do hereby certify that James Mundy personally appeared before me this day, and each acknowledged the due execution of the foregoing document.

Date: 9-17-07

Carol S. Smith
Notary Public

My commission expires: 12/05/11